

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

PENGUIN GROUP (USA) INC.,

Plaintiff,

v.

AMERICAN BUDDHA,

Defendant.

No. 3:13-cv-00497-HU

OPINION AND ORDER

MOSMAN, J.,

On September 16, 2013, Magistrate Judge Hubel issued his Findings and Recommendation (“F&R”) [74] in the above-captioned case, recommending that Defendant’s Motion to Change or Transfer Venue [25] be GRANTED. Plaintiff objected [76] and Defendant responded [79]. I granted Plaintiff leave to submit a reply [82], which was then filed [83].

DISCUSSION

The magistrate judge makes only recommendations to the court, to which any party may file written objections. I am not bound by the recommendations of the magistrate judge; instead, I retain responsibility for making the final determination. I am required to review de novo those portions of the report or any specified findings or recommendations within it as to which an

objection is made. 28 U.S.C. § 636(b)(1). However, I am not required to review, de novo or under any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no party has objected. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny I am required to apply to the F&R depends on whether objections have been filed, in either case I am free to accept, reject, or modify any part of the F&R. 28 U.S.C. § 636(b)(1).

Upon review, I agree with Judge Hubel's recommendation, and I ADOPT the F&R [74] as my own opinion.

IT IS SO ORDERED.

Dated this 6th day of December, 2013.

/s/ Michael W. Mosman
MICHAEL W. MOSMAN
United States District Judge